

January 30, 1975

No court can question us, I believe, because the Constitution says that the Supreme Court shall have jurisdiction except in matters of contest of election for members of the Legislature. Senator Kelly, a member of the committee and a very conscientious member of the committee, repeatedly asked the question that has to be asked by every man here today. He never received an answer. Senator Kelly asked two questions. What is our power? What is thing, jurisdiction? What is jurisdiction? Senator Kelly said, is it control of the decision? Does it mean power? The answers never come. Mr. Lovell said, it is within your power, yes sir. It is within your power to decide this, to judge this election. Mr. Lovell says that on page 18 of the January 21st hearing. Senator Kelly asked, "I am going to take jurisdiction to mean what you stated that the Legislature does not have legal ability to take ahold of this challenge and decide it." Mr. Lovell says, "No, I didn't say it didn't have the legal ability." Alright, we have the legal ability gentlemen. Each of you know it. Each of you can read the Constitution and you can probably read it better than I am, because I do operate under the disability of being a lawyer. The Constitution was written by the people, for the people. You are the representatives of the people. Again, the Select Committee says, "it is the obligation of the Legislature to follow the law." What is the law? As I read the Constitution the other night there was a program on in the case of Milligan. So I referred back to that case, Ex parte Milligan. An early case in history of the United States. A case before the Supreme Court, which Justice Davis tells us what the Constitution is. He says, "the Constitution is a law for rulers and people, equally in war and in peace; and covers within the shield of its protection all classes of men at all times and under all circumstances. No doctrine involving more pernicious consequences was ever invented by the wit of man that in any of its provisions may be suspended during any of the great exorcizes of government." Now there was a problem where the court was confronted with great emotional pressure, in a time of great historical strain. They found that they had to read the Constitution and fulfill its obligations. There is no court that can tell us now what to do.

PRESIDENT: Two minutes Senator.

SENATOR CAVANAUGH: There is no court that can review for us what is our duty. But the people have said that they want every man who sits in this body to come here equally. We have talked about due process and due process to William Nichol, a gentleman among gentlemen. What is due process to William Nichol? Is it to say that because this bond was not filed you, William Nichol, will sit in this body under a cloud of question that you came here as the elected representative of the majority of the people of the 48th District. He cannot sit here otherwise, because there is a question. There is a contest. The people have said in their Constitution, we'll decide the contest, so that William Nichol can sit here, as Thone Johnson sits here, in confidence that the mantle that he wears of power and that the title he wears of honorable, was bestowed upon him by the people of his district, as it was with Myron Rummary, as it was with Walter George. It is not due process to say to William Nichol that you will not sit here under the same protection. It is not due process to the people of the 48th District, or to the State of Nebraska, that there be one members of this body that every person in